

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-209149

DATE: October 20, 1982

MATTER OF: Watch Security, Inc.

DIGEST:

1. A bidder may submit evidence, after bid opening, to demonstrate that it satisfies requirement concerning experience and capability since such is a matter of responsibility, not responsiveness.
2. A protest that an awardee did not meet definitive experience requirements of an invitation for bids is denied where the contracting officer relied on objective evidence in making the affirmative determination of responsibility. The relative quality of the evidence is a matter for judgment of the contracting officer and not GAO.

Watch Security, Inc. (Watch), protests the award to Ree's, Inc., under invitation for bids (IFB) No. FTC-82-13, for security guard services, issued by the Department of the Treasury, Federal Law Enforcement Training Center, Georgia (Treasury). It is clear from Watch's initial submission that this protest is without legal merit. Therefore, we are deciding the matter without obtaining an agency report. The Brunton Company, B-192243, August 29, 1978, 78-2 CPD 151. The protest is summarily denied.

The IFB, in paragraph 5.2, provides:

"Each bidder is requested to furnish with his bid written evidence of his satisfactory performance during the entire six (6) calendar months immediately prior to the date of this Invitation for Bids, of operations similar in scope and type to those required in this Invitation, in an industrial plant, office building, or Federal

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reservation within the southeastern United States."

Watch argues that Ree's bid was nonresponsive since it did not contain evidence of its satisfactory performance, as required in paragraph 5.2. Furthermore, Watch contends that the information submitted after bid opening demonstrates that Ree's did not satisfy the requirements of paragraph 5.2.

In regard to Ree's failure to submit the information with its bid, since the information related to Ree's capability and experience, i.e., Ree's responsibility, there was no requirement that such be filed with the bid. See Gaffney Plumbing and Heating Corporation, B-206006, June 2, 1982, 82-1 CPD 521. This is so regardless of solicitation language requiring submission of information concerning experience with the bid, because a contracting agency cannot make a matter of responsibility into one of responsiveness by the terms of the solicitation. Science Applications, Inc., B-193479, March 8, 1979, 79-1 CPD 167. Therefore, this issue is denied.

Regarding Ree's satisfaction of the requirement, as a general rule, our Office does not review affirmative determinations of responsibility unless fraud on the part of the procuring officials is shown or the solicitation contains definitive responsibility criteria which allegedly have been misapplied. Proficiency Associates, Inc., B-198844.2, January 19, 1981, 81-1 CPD 29. There is no allegation of fraud, but Watch does allege that Treasury has misapplied the criteria set forth in paragraph 5.2, above.

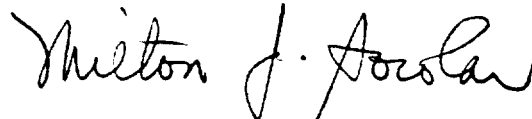
Definitive responsibility criteria are specific and objective standards established by an agency for a particular procurement for the measurement of a bidder's ability to perform the contract. These special standards limit the class of bidders to those meeting specified qualitative and quantitative qualifications necessary for adequate contract performance. Proficiency Associates, Inc., supra; Haughton Elevator Division, Reliance Electric Company, 55 Comp. Gen. 1051 (1976), 76-1 CPD 294.

The record shows that a list of references was submitted to and subsequently contacted by Treasury.

Essentially, the information received by Treasury indicated that Ree's performance was good, an effort was made to resolve problems that arose, there were no complaints concerning the employees and Ree's was conscientious.

We will not object to a contracting officer's affirmative determination of responsibility unless it is shown to be without a reasonable basis. In this instance, there was objective evidence relevant to the definitive responsibility criteria and favorable to Ree's before the contracting officer at the time of his determination. This in itself is sufficient to satisfy our review standard. The relative quality of the evidence is a matter for the judgment of the contracting officer, not our Office. See Courier-Citizen Company, B-192899, May 9, 1979, 79-1 CPD 323.

The protest is summarily denied.

A handwritten signature in dark ink, reading "Milton J. Aroslan". The signature is fluid and cursive, with the first name "Milton" being the most prominent.

Acting Comptroller General
of the United States